

Tab A

Constitution and Bill of Rights

IP Event Lesson Plan

1. *Topic:*

Constitution and Bill of Rights

2. *Suggested Activities:*

A. Guest speakers and local tours focusing on specific Articles of the Bill of Rights used in concert with nationally designated holidays (Martin Luther King Day, Columbus Day, Veterans' Day, Memorial Day, Fourth of July, etc.)

B. Briefings by guest speakers and tours to jails, detention centers, courthouses, police stations, newspapers and political action groups which show a direct correlation to the rights of individuals as stated in the Bill of Rights of the Constitution.

C. This particular topic area can be linked to most of the other IP topic areas when a direct association can be tied to the rights of individuals as stated in the Bill of Rights of the Constitution.

3. *Student Requirements:*

- A. Attire (civilian clothes/uniform)
- B. Event information sheet
- C. Camera and film
- D. Money for emergency phone call or souvenirs

4. *Escort Requirements:*

- A. Advance ticket purchases if necessary
- B. Event information sheets for each international student
- C. Ensure necessary briefing information is available
- D. Brief (pre & post) international students about event(s)
- E. Ensure escorts are familiar with event objectives to guarantee all points are adequately covered
- F. Confirm/arrange transportation requirements
- G. Event evaluation sheets are completed by each student
- H. Discuss event with point of contact at event location and ensure escort carries point of contact's name and phone number

I. Ensure point of contact at event location is provided with the objectives to be covered prior to arrival of students

5. Introduce student to following objective(s) (under the universal declaration of human rights):

A. **Article 1:** all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

B. **Article 2:** everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

C. **Article 3:** everyone has the right to life, liberty and the security of person.

D. **Article 4:** no one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

E. **Article 5:** no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

F. **Article 6:** everyone has the right to recognition everywhere as a person before the law.

G. **Article 7:** all are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this declaration and against any incitement to such discrimination.

H. **Article 8:** everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the Constitution or by law.

I. **Article 9:** no one shall be subjected to arbitrary arrest, detention or exile.

J. **Article 10:** everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

K. **Article 11:** everyone charged with a penal offense has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.

No one shall be held guilty of any penal offense on account of any act or omission which did not constitute a penal offense, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offense was committed.

L. **Article 12:** no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

M. **Article 13:** everyone has the right to freedom of movement and residence within the borders of each state.

Everyone has the right to leave any country, including his own, and to return to his country.

N. **Article 14:** everyone has the right to seek and to enjoy in other countries asylum from persecution.

This right May not be invoked in the case of prosecution genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the united nations.

O. **Article 15:** everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change is nationality.

P. **Article 17:** everyone has the right to own property alone as well as in association with others.

No one shall be arbitrarily deprived of his property.

Q. **Article 18:** everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his/her religion or belief in teaching, practice, worship and observance.

R. **Article 19:** everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

S. **Article 20:** everyone has the right to freedom of peaceful assembly and association.

No one May be compelled to belong to an association.

T. **Article 21:** everyone has the right to take part in the government of his country, directly or indirectly or through freely chosen representatives.

Everyone has the right of equal access to public service in his country. the will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

U. **Article 23:** everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.

Everyone, without any discrimination, has the right to equal pay for equal work.

Everyone who works has the right to just and favorable remuneration ensuring for himself/herself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

Everyone has the right to form and to join trade unions for the protection of his interests.

V. **Article 24:** everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

W. **Article 26:** everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

Parents have a prior right to choose the kind of education that shall be given to their children.

X. **Article 27:** everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Y. **Article 29:** everyone has duties to the community in which alone the free and full development of his personality is possible.

In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of

others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

These rights and freedoms May in no case be exercised contrary to the purposes and principles of the united nations.

Z. **Article 30:** nothing in the universal declaration of human rights May be interpreted as implying for any state, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth in the universal declaration of human rights.

6. IP Area(s) of Emphasis:

A. Internationally recognized human rights as outlined in the universal declaration of human rights.

B. Democratic ideals of an elected government and effective civil-military relations that reinforce the government.

7. Other learning objective(s) or teaching point(s):

A. Be able to relate the Bill of Rights to the IP event:

The Bill of Rights -- 1791

First Amendment

Forbids the Congress to interfere with religion, free speech, a free press, or with the right to assemble peaceably, or to petition the government.

Second Amendment

Guarantees to the people the right to have weapons.

Third Amendment

Guarantees against lodging soldiers in private houses without the consent of the owners.

Fourth Amendment

Provides that there shall be no search or seizure of persons, houses, goods, or papers, without a warrant.

Fifth Amendment

Declares that there shall be no trial for serious offenses without a grand jury indictment, no repeated trials for the same offense, no condemnation without trial, no compulsion to be a witness against oneself, and no property taken for public use except at a fair price.

Sixth Amendment

Requires a speedy and public trial for criminal offenses in the district where the crime was committed, a fair jury, a plain statement of the accusation, gives the accused the right to be represented by a lawyer and to compel the attendance of his witnesses, and requires all witnesses to testify in the presence of the accused.

Seventh Amendment

Provides that in lawsuits about anything valued at more than \$20, a trial by jury shall be allowed.

Eighth Amendment

Prohibits too large bail or fines, and cruel or unusual punishments.

Ninth Amendment

Declares that rights not stated in the Constitution are not therefore taken away from the people.

Tenth Amendment

States that powers not delegated to the United States nor prohibited by the Constitution to the states are reserved to the states or to the people.

B. Discuss the three essential characteristics of American government that make it distinctive:

(1) it is a government whose power over its people is limited by its structure, its laws, and its traditions.

(2) it is a popular government -- that is, its authority and legitimacy come from the people.

(3) it is an adaptable government, one that has proven itself capable of adjusting to changing conditions.

C. The Constitution provides for a federal system because the delegates to the Constitutional convention feared an overly powerful central government. A number of compromises were written into the Constitution to protect the smaller states and to ensure that the states would continue to be important governmental units.

D. The Constitution gives the central government the power to collect taxes, carry on foreign affairs, control the Army and Navy, regulate interstate trade, and coin money.

IP Event Information Sheet

U.S. Constitution and Bill of Rights

After the revolutionary war, the colonies established a central government under the Articles of confederation. However, this was a very weak structure with no powers to tax, no chief executive and no power to force the states to work together as a nation. This structure lasted for eight years. In the later stages of this period, the experienced leaders of the states began to fear that the states would go their own way and that the chance to become a nation was slipping away, so through the Congress they organized for a convention to change and strengthen the Articles of confederation.

On September 17, 1787, after four months of deliberation and discussion, the final draft of the Constitution was ready for signature. Of the 70 delegates named by the states to the convention, only 55 actually participated and only 39 signed the finished product.

Ratification of the proposed Constitution by the separate states took two and one-half years. A simplified version of the text of the supreme law of the land is provided below:

The Constitution as it was Adopted

Preamble

Explains the purpose of the people in adopting the Constitution.

First Article

Provides for a Congress and defines its power to make laws.

Second Article

Provides for the election of a president and vice president, with defined powers, and for the appointment of other officials.

Third Article

Sets up a supreme court, authorizes the Congress to set up other courts, and defines their powers.

Fourth Article

Defines relationships between the federal government and the states, and between the states themselves.

Fifth Article

Tells how the Constitution May be amended

Sixth Article

Accepts responsibility for all debts that the nation owed before the adoption of the Constitution; declares that the Constitution, Constitutional laws, and treaties are the supreme law of the land; and provides that all public officers must take an oath to support the Constitution.

Seventh Article

Declares that ratification by nine states will put the Constitution into effect.

One of the shared concerns of the majority of the colonists was that of their personal liberties and freedom -- a major cause many had left their country of birth and migrated to the colonies to escape oppression. Since no such qualities were in the draft Constitution, Alexander Hamilton shrewdly drafted and pressed for the first ten Amendments, otherwise known as the Bill of Rights, as a condition in getting the state of new York to ratify the Constitution, which was done in 1791. The Bill of Rights in simplified version is provided below:

The Bill of Rights -- 1791

First Amendment

Forbids the Congress to interfere with religion, free speech, a free press, or with the right to assemble peaceably, or to petition the government.

Second Amendment

Guarantees to the people the right to have weapons.

Third Amendment

Guarantees against lodging soldiers in private houses without the consent of the owners.

Fourth Amendment

Provides that there shall be no search or seizure of persons, houses, goods, or papers, without a warrant.

Fifth Amendment

Declares that there shall be no trial for serious offenses without a grand jury indictment, no repeated trials for the same offense, no condemnation without trial, no compulsion to be a witness against oneself, and no property taken for public use except at a fair price.

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Requires a speedy and public trial for criminal offenses in the district where the crime was committed, a fair jury, a plain statement of the accusation, gives the accused the right to be represented by a lawyer and to compel the attendance of his witnesses, and requires all witnesses to testify in the presence of the accused.

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Provides that in lawsuits about anything valued at more than \$20, a trial by jury shall be allowed.

Eighth Amendment

Prohibits too large bail or fines, and cruel or unusual punishments.

Ninth Amendment

Declares that rights not stated in the Constitution are not therefore taken away from the people.

Tenth Amendment

States that powers not delegated to the United States nor prohibited by the Constitution to the states are reserved to the states or to the people.

The following document, with the first ten Amendments has not been a static document, but has been amended through due process over the years to reflect the desires and aspirations of the American people:

Amendments Passed After the Bill of Rights

Eleventh Amendment (1795)

Declares that the judiciary of the United States does not have authority to hear a suit against a state if brought by a citizen of another state or a foreigner.

Twelfth Amendment (1804)

Provides a better way of electing the president and vice president

Thirteenth Amendment (1865)

Puts an end to slavery

Fourteenth Amendment (1868)

Defines citizenship of the United States and of a state, prohibits states from taking away the rights of citizens unlawfully, defines the basis of representation in the house of representatives, states certain disqualifications from holding public office, and confirms certain civil war debts and disclaims others.

Fifteenth Amendment (1870)

Declares that no citizen shall lose the right to vote because of race, color, or previous condition of servitude.

Sixteenth Amendment (1913)

Gives Congress power to enact income tax laws.

Seventeenth Amendment (1913)

Provides that United States senators shall be elected by the people.

Eighteenth Amendment (1919)

Prohibited the manufacture, sale, or transportation of alcoholic beverages (repealed in 1933).

Nineteenth Amendment (1920)

No citizen shall be refused the right to vote because of being a woman.

Twentieth Amendment (1933)

Changes the date of the inauguration of the president and of the opening of the Congress, and provides for filling the presidency and vice presidency under certain conditions.

Twenty-first Amendment (1933)

Repeals the 18th Amendment and forbids the carrying of alcoholic liquors into any state, territory, or possession of the United States in violation of its laws.

Twenty-second Amendment (1951)

Limits the number of times anyone May be elected to the office of president.

Twenty-third Amendment (1961)

Gives citizen residents of the district of Columbia the right to vote for the president and vice president.

Twenty-fourth Amendment (1964)

Declares that no citizen shall be prevented from voting for the president, the vice president, or members of the Congress because he has not paid a tax.

Twenty-fifth Amendment (1967)

Sets forth the method of determining presidential disability, and provides a plan for filling a vacancy in the office of vice president.

Twenty-sixth Amendment (1971)

Provides that no citizen, who is 18 years of age or older, shall be denied the right to vote in federal or state elections because of age.

These two documents were not new in the sense that the ideas expressed in them were the products of the minds of the preparers. What is unique is the governmental structure which they formed, with its separation of powers and checks and balances, put together by a handful of men who, through alliances, bargaining and compromise, met the diverse desires and needs of the federal and state governments and the citizens.

The United States is the most powerful nation in the world. Our president is often described as the most powerful man in the world. But it will come as a surprise to many internationals -- and to

some Americans -- to find that our national government is far from being the most powerful government in the world. It is, in many ways, one of the most limited, and it is limited by Constitutional design. It is important to make certain that individuals grasp this fact and understand why it is a hallmark of the American system of government.

This is not an easy thing to get across -- this contrast between the power of the nation and the limited nature of the government. It directly contradicts almost all the basic assumptions which most foreign military trainees will have about the nature and function of governments. For the most part, the governments they serve have, or claim to have, almost complete control over the machinery of administration down to the smallest village in the back country. Generally, such governments are responsible to an ideological creed. In either case, sovereignty is unified and locatable; it exists in one place and orders all things. By contrast, sovereignty in the United States, although it rests with the people in the last analysis, is divided up and filtered through so many independent layers of government that it is anything but unified.

When internationals think of government, they almost instinctively think of the state, that is, a collective entity which is superior both to government and people and which encompasses them and other things as well. While many governments today run their affairs democratically, once the democratic decision has been made, it is often carried out in an authoritative fashion seldom seen in this country. In most cases European countries have transmitted this notion of the omnipotent state to the colonial peoples who have thrown off their rule but retain many of their methods. In all these countries, the state may observe certain limits on its actions, but these are self-imposed, not obligatory. The notion of a limited government is, therefore, quite strange to most internationals.

In view of all this, most internationals expect from government a unity of counsel and a decisiveness and coherence of action which many regard as almost lacking in the operations of American government. Many internationals cannot understand how a supreme court of the federal government can strike down laws passed by a democratically elected legislature. Many are puzzled when a single senator or representative can, because of his seniority in Congress, hamstring programs of the executive branch. Many are taken aback when the governor of a state seemingly defies the rulings of federal courts. Many are not particularly reassured when, after much delay, decisions on matters of great weight are reached by the method of compromise -- "splitting the difference" -- in a manner which seems to them beneath the dignity of a powerful state. However, our American government is a proven effective system that works because of its strong foundation based on the Constitution and Bill of Rights.

The above information should provide a fundamental basis of the U.S. Constitution and Bill of Rights and their importance in protecting the rights, liberties and freedoms enjoyed by all Americans. After this event, you should recognize how the Constitution and Bill of Rights relate to the following Articles in the universal declaration of human rights:

A. **Article 1:** all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

B. **Article 2:** everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a

person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

C. **Article 3:** everyone has the right to life, liberty and the security of person.

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G. **Article 7:** all are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this declaration and against any incitement to such discrimination.

H. **Article 8:** everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the Constitution or by law.

I. **Article 9:** no one shall be subjected to arbitrary arrest, detention or exile.

J. **Article 10:** everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

K. **Article 11:** everyone charged with a penal offense has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense. No one shall be held guilty of any penal offense on account of any act or omission which did not constitute a penal offense, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offense was committed.

L. **Article 12:** no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

M. **Article 13:** everyone has the right to freedom of movement and residence within the borders of each state.

Everyone has the right to leave any country, including his own, and to return to his country.

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This right May not be invoked in the case of prosecution genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the united nations.

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R. **Article 19:** everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

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No one May be compelled to belong to an association.

T. **Article 21:** everyone has the right to take part in the government of his country, directly or indirectly or through freely chosen representatives.

Everyone has the right of equal access to public service in his country.

The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

U. **Article 23:** everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.

Everyone, without any discrimination, has the right to equal pay for equal work.

Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

Everyone has the right to form and to join trade unions for the protection of his interests.

V. **Article 24:** everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

W. **Article 26:** everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the united nations for the maintenance of peace.

Parents have a prior right to choose the kind of education that shall be given to their children.

X. **Article 27:** everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Y. **Article 29:** everyone has duties to the community in which alone the free and full development of his personality is possible.

In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

These rights and freedoms May in no case be exercised contrary to the purposes and principles of the united nations.

Z. **Article 30:** nothing in the universal declaration of human rights May be interpreted as implying for any state, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth in the universal declaration of human rights.

U.S. Constitution and Bill of Rights

IP Questions and Answers

What is the Constitution?

The Constitution is the basic law of the United States. It prescribes the structure of the United States government, provides the legal foundation on which all its actions must rest and both enumerates and guarantees the rights due all its citizens.

The core of the Constitution is a document prepared by a convention of delegates from the states which met at Philadelphia in 1787. The original charter, which became operative in 1789, established the United States as a federal union of states, a representative democracy within a republic. The framers provided a government of three independent branches; the first is the legislature, which comprises a two-house Congress consisting of a Senate, whose members are apportioned equally among the states, and a house of representatives, whose members are apportioned among the states according to population. The second, the executive branch, includes the president and vice president and all subsidiary officials of the executive departments. The third, the judiciary, consists of the supreme court and various inferior federal courts.

Twenty-six Articles of Amendment approved since 1791 are also considered an integral part of the Constitution. These include Amendments 1 through 10, known collectively as the Bill of Rights, and Amendments 11 through 26, which address a wide range of subjects. At the present time, two additional Amendments have been approved by Congress and are under consideration by the states.

What Were the Basic Principles on Which the Constitution Was Framed?

The framers of the Constitution agreed, without dispute, to six basic principles:

1. All states would be equal. The national government cannot give special privileges to one state.
2. There should be three branches of government -- one to make the laws, another to execute them, and a third to settle questions of law.
3. All persons are equal before the law; and anyone, rich or poor, can demand the protection of the law in the exercise of his rights.
4. The government is a government of laws, not of men. No one is above the law. No officer of the government can use authority unless and except as the Constitution or inferior law permits.
5. The people can change the authority of the government by changing (amending) the Constitution. (one such change provided for the election of senators by direct vote instead of by state legislatures.)
6. The Constitution, the acts of Congress, and the treaties of the United States are the highest law in the land.

What is the Bill of Rights?

The Bill of Rights is a series of ten Amendments to the Constitution which guarantee certain individual rights. The first 10 Amendments to the Constitution, ratified by the required number of states on December 15, 1791, are commonly referred to as the Bill of Rights. As a matter of fact, the first eight Amendments set out the substantive and procedural personal rights associated with that description. The ninth and 10th Amendments are general rules of interpretation of the relationships among the people, the state governments and the federal government -- all powers not delegated by the Constitution to the United States, nor prohibited to the states, are reserved respectively to the states or to the people.

What are the Rights Enumerated in the Bill of Rights?

- Right to freedom of religion, speech and press (Amendment 1)
- Right to peaceably assemble, and to petition government for a redress of grievances (Amendment 1)
- Right to bear arms in common defense (Amendment 2)
- Right not to have soldiers quartered in one's home in peacetime without the consent of the owner, nor in time of war except as prescribed by law (Amendment 3)
- Right to be secure against "unreasonable searches and seizures" (Amendment 4)
- Right in general not to be held to answer criminal charges except upon indictment (Amendment 5)
- Right not to be put twice in jeopardy for the same offense (Amendment 5)
- Right not to be compelled to be a witness against oneself in a criminal case (Amendment 5)
- Right not to be deprived of life, liberty, or property without due process of law (Amendment 5)
- Right to just compensation for private property, taken for public use (Amendment 5)
- Right in criminal prosecution to a public trial by a jury, to be informed of the charges, to be confronted with witnesses, to have a compulsory process for calling witnesses, and to have legal counsel (Amendment 6)
- Right to a jury trial in suits at law involving over twenty dollars (Amendment 7)
- Right not to have excessive bail required, nor excessive fines imposed, nor cruel and unusual punishments inflicted (Amendment 8)

What is Meant by the Separation of Powers in the Federal Government?

The Constitution contains provisions in separate Articles for three branches of government -- legislative, executive, and judicial. There is a significant difference in the grants of power to these branches: the first Article, dealing with legislative power, vests in Congress "all legislative powers herein granted"; the second Article vests "the executive power" in the president; and the third Article states that "the judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress May from time to time ordain and establish." The theory of this separation of powers is that by keeping the three branches independent of one another they are a check upon each other so that a tyrannous concentration of power is made impossible.

How May the Constitution be Amended?

Amending the Constitution involves two separate processes.

- First, Amendments May be proposed on the initiative of Congress (by two-thirds affirmative vote in each house) or by convention (on application of two-thirds of the state legislatures). So far, there has never been a convention called under such authority.
- The second step, ratification of a proposed Amendment, at the discretion of Congress May be either by the state legislatures or by conventions, and requires approval by three-fourths of the states. As of the adjournment of the 96th Congress, the 21st Amendment is the only one to have been ratified by state conventions.

The first 10 Amendments (ratified in 1791) were practically a part of the original instrument. The 11th Amendment was ratified in 1795, and the 12th Amendment in 1804. Thereafter, no Amendment was made to the Constitution for 60 years. Shortly after the civil war, three Amendments were ratified (1865-70), followed by another long interval before the 16th Amendment became effective in 1913.

The most recent Amendment, the 26th, was ratified on July 1, 1971. It lowered the voting age to 18 for federal, state and local elections. At present, two Amendments proposed by Congress are pending before the states -- one to deal with equal rights for men and women, and one to give the district of Columbia voting representation in the house and the Senate. As of July 1980, 35 of the required 38 states had ratified the equal rights Amendment. Of these, however, Nebraska, Tennessee and Idaho have sought to rescind their ratifications. Whether Congress would accept such rescissions is unknown.

Nine states had ratified the district of Columbia voting representation Amendment by July 1980.

What Are the Powers of Congress as Provided in the Constitution?

The Constitution (Article I, section 8) empowers the Congress to levy taxes, collect revenue, pay debts and provide for the general welfare; borrow money; regulate interstate and foreign commerce; establish uniform rules of naturalization and bankruptcy; coin (question has arisen from time to time regarding the legality of printing money) and regulate its value; punish counterfeiters; establish a postal system; enact patent and copyright laws; establish federal courts inferior to the supreme court; declare war; provide for armed forces; and to have exclusive legislative power over the district of Columbia. Congress is also given the power to enact such laws as May be "necessary and proper" to implement its mandate in Article I, and in certain Amendments to the Constitution.

What are the Constitutional Powers of the President?

Article II of the Constitution vests the "executive power" in the president. There is dispute among scholars as to whether the executive power consists solely of those powers enumerated for the president or whether it includes also those powers that are implied in Article II. Most authorities lean toward the latter interpretation.

The actual powers expressly granted to the president are few in number. He is commander in chief of the Army and Navy and of the state militias when called into the service of the United States. He May require the written opinion of his executive officers and is empowered to grant reprieves and pardons except in the case of impeachment. He has power, by and with the advice and consent of the Senate, to make treaties, provided that two-thirds of the senators present concur. He also nominates and by and with the advice and consent of the Senate, appoints

ambassadors, other public ministers and consuls, justices of the supreme court, and other federal officers whose appointments are established by law. The president has the power to fill all vacancies that occur during the recess of the Senate. Those commissions expire unless the Senate consents to them when it reconvenes. The Constitution also directs the president periodically to inform Congress on the state of the union and to recommend legislation that he considers necessary and expedient. He may, on extraordinary occasions, convene both houses of Congress, or either of them, and in case the two houses disagree as to the time of adjournment, he may adjourn them to such time as he considers proper. The president also receives ambassadors and other public ministers, must take care that the laws are faithfully executed, and commissions all officers of the United States. The president may veto acts of Congress. A two-thirds vote of those present and voting is required in both the house and Senate to override his veto.

In addition to these express powers, the chief executive derives certain implied authority from the Constitution. This implied authority, like the express powers, has been in the past and remains today a subject of dispute and debate. For example, the Constitution does not grant to the president express power to remove administrators from their offices, though until the 1930s there was general broad agreement that the president possessed this power. In the 1930s however, when president Roosevelt removed a member of the federal trade commission for reasons of "policy," the supreme court ruled the removal invalid because Roosevelt did not follow the statutory grounds for removal. In a more recent incident, the removal of Archibald Cox by president Nixon during the watergate investigations was ruled invalid by a U.S. district court.

Another implied Constitutional power is the president's authority as commander in chief. Though the Congress has the explicit power to declare war, the president not only has the authority to protect the nation from sudden attack, but also to initiate military activities without a formal declaration of war. American presidents have used military force hundreds of times, but only on five occasions has Congress declared war: the war of 1812, the Mexican war, the Spanish-American war, and the two world wars. On all other occasions it merely recognized, after executive initiatives, that war did in fact exist. In recent years, Congress has sought to more clearly define, most notably through the war powers resolution of 1973, the conditions under which presidents could take unilateral military action.

The Judiciary Branch

What is the Supreme Law of the Land?

The Constitution combined with the laws of the United States made "in pursuance of" the Constitution and treaties made under authority of the United States comprise the "supreme law of the land". Judges throughout the country are bound by them, regardless of anything in separate state Constitutions or laws.

Items of Interest

What Were the Articles of Confederation?

The Articles of confederation were a framework of national government which the continental Congress adopted on November 15, 1777. This was proposed to the legislatures of all the states by a circular letter on November 17, that recommended the Articles as the only plan which stood a chance of being adopted by the several states. Thus, if the states approved, they could authorize their delegates in Congress to ratify the Articles.

By March 1, 1781, the Articles had been ratified by all 13 states and on the following day, the continental Congress assembled under the new form of government.

How Long May a Proposed Amendment to the Constitution Remain Outstanding and Open to Ratification?

The supreme court has stated that ratification must be within "some reasonable time after the proposal." Beginning with the 18th Amendment it has been customary for Congress to set a definite period for ratification. In the case of the 18th, 20th, 21st, and 22nd Amendments, and the pending equal rights Amendment, the period set was 7 years; but there has been no determination as to just how long a "reasonable time" might extend.

In the case of the proposed equal rights Amendment the Congress extended the ratification period from 7 to approximately 10 years. Under the current law the deadline is June 30, 1982.

The proposed D.C. Congressional representation Amendment must be ratified by August 21, 1985, to become part of the Constitution. The 7 year ratification deadline May not be extended because the ratification period is included in the body of the proposed Amendment.

What is the Lame Duck Amendment?

The "Lame Duck" Amendment is the popular name for the 20th Amendment to the Constitution, ratified on February 6, 1933. This Amendment provides, among other things, that the terms of the president and vice president shall end at noon on January 20; the terms of senators and representatives shall end at noon on January 3, and the terms of their successors shall then begin. Prior to this Amendment, the annual session of Congress began on the first Monday in December (Article I, section 4). Since the terms of new members formerly began on March 4, this meant that members who had been defeated or did not stand for reelection in November continued to serve during the "Lame Duck" session from December through March 4. Adoption of the 20th Amendment has not entirely obviated legislation by a Congress that does not represent the latest choice of the people. Nine sessions since 1933 have not adjourned *sine die* (indefinitely) prior to the November general elections. The most recent Congress to extend beyond the November elections was the 96th Congress which adjourned on December 16, 1980.

Have Many Amendments to the Constitution Been Repealed?

Only one -- the 18th Amendment (prohibition), which was repealed by the 21st Amendment.